Case No. 2007-00503

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December 5, 2007

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PUBLIC SERVICE
COMMISSION

Elizabeth O'Donnell
Executive Director
Kentucky Public Service Commission
P.O. Box 615
211 Sower Boulevard
Frankfort, KY 40601

RE: Petition Of Verizon To Reduce Windstream's Switched Access Charges

Dear Ms. O'Donnell:

On behalf of MCI Communications Services, Inc., Bell Atlantic Communications, Inc., NYNEX Long Distance Company, TTI National, Inc., Teleconnect Long Distance Services & Systems Company and Verizon Select Services, Inc. (collectively, "Verizon"), enclosed please find an original and eleven copies of Verizon's Petition to Reduce Windstream's Switched Access Charges.

One confidential exhibit is included with this filing. Accordingly, included in this filing is a single copy of the exhibit and a petition for confidential treatment.

Please indicate receipt of this filing by placing your file stamp on the extra copy and returning to me via our runner.

Very truly yours,

STOLL KEENON OGDEN PLLC

Douglas F. Brent

DFB:

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE COMMISSION

In the matter of:

MCI Communications Services, Inc., Bell Atlantic Communications, Inc., NYNEX Long Distance Company, TTI National, Inc., Teleconnect Long Distance Services & Systems Company and Verizon Select Services, Inc.	)	
Complainants	)	Case No. 2007-00 503
vs.	)	
Windstream Kentucky West, Inc., Windstream Kentucky East, Inc. – Lexington, and Windstream Kentucky East, Inc. – London	)	
Defendants	)	

PETITION OF VERIZON TO REDUCE WINDSTREAM'S SWITCHED ACCESS CHARGES

MCI Communications Services, Inc. d/b/a Verizon Business Services, Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance, NYNEX Long Distance Company d/b/a Verizon Enterprise Solutions, TTI National, Inc., Teleconnect Long Distance Services & Systems Company d/b/a Telecom*USA and Verizon Select Services, Inc. (collectively, "Verizon") ask the Commission to reduce the unreasonably high intrastate switched access charges of the Windstream companies.[1] Windstream's intrastate switched access charges must be investigated in light of the dramatic changes in the telecommunications market that have occurred over the past several years, and in furtherance of the Commission's previously articulated policy that intrastate access rates should move closer toward rates for interstate access

[1] The Windstream companies are Windstream Kentucky West, Inc., Windstream Kentucky East, Inc.-Lexington, and Windstream Kentucky East, Inc.-London.

services. Pursuant to KRS § 278.260 and 807 KAR 5:001, Section 12, Verizon respectfully shows:

1. The petitioners are telecommunications carriers providing interexchange services to residential and commercial customers throughout the Commonwealth, including "1+" long distance services in all exchanges. Verizon and/or its predecessors in interest have provided intrastate service to Kentuckians continuously since 1984, when MCI Telecommunications Corporation was granted authority to provide interLATA service in the Commonwealth.[2]

2. Windstream Kentucky West, Inc., Windstream Kentucky East, Inc.-Lexington, and Windstream Kentucky East, Inc.-London (collectively, "Windstream") are incumbent local exchange carriers providing both local and interexchange services either directly or through affiliates. Directly or through an affiliated interexchange carrier, Windstream competes with Verizon in providing both intraLATA and interLATA toll services. As these are nonbasic services under KRS § 278.541(5), Windstream has complete pricing flexibility for each.

3. Verizon owns a telecommunications network that includes transmission facilities (including fiber-optic lines and microwave transmitters) and points of presence in various locations in Kentucky, including the exchange territories of Windstream. While Verizon's network reaches most areas of the state, it generally does not extend to individual customers. To provide interexchange services to its customers, Verizon must purchase "switched access" services under tariff from Windstream and other Kentucky local exchange carriers, including other incumbents like BellSouth, as well as from non-incumbents like Insight Communications ("Insight"). For example, if a Verizon long-distance customer in Elizabethtown, Kentucky calls a number in Lexington, Kentucky, Verizon will transport the call to its point of presence serving

[2] *Application of MCI Telecommunications Corporation to offer Interexchange Telecommunications Services*, Order, Case No. 8946 (Nov. 21, 1984).

Lexington, and then hand the call to the local carrier serving the dialed number. Verizon pays the carrier a per-minute "switched access" rate for the duration of the call. If the terminating carrier is Windstream, Verizon pays the rate charged by Windstream. If the terminating carrier is another local carrier, like Insight, Verizon pays the rate charged by Insight. Changing the examples above slightly, if the Verizon long-distance customer is calling from another state, the call is an interstate call and the local exchange carrier charges the terminating switched access rates tariffed at the FCC.

4. As discussed below, interstate switched access rates have fallen dramatically since the 1990s, and some local carriers, including BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky ("BellSouth"), have mirrored those reductions in their intrastate switched access rates. But while BellSouth's intrastate access rates have been reduced substantially over time to levels that the Commission deems just and reasonable, the same is not true of other carriers' rates.

5. In particular, the Windstream companies' Kentucky intrastate switched access rates are about eight to twenty-one times higher than BellSouth's intrastate access rates and are not "fair, just and reasonable," as Kentucky law requires.[3] To promote competition and enhance consumer welfare, the Commission should order Windstream to mirror BellSouth's intrastate switched access rates.

6. Verizon contacted Windstream earlier this year to try to initiate negotiations at a national level, but Windstream was not interested in meaningful negotiations.

[3] KRS § 278.030(1). In Lexington, Windstream's switched access rates are also substantially higher than the rates charged by Insight to terminate interexchange traffic.

I. BACKGROUND

7. The Commission began to recognize the need to rationalize Kentucky access rates well over a decade ago. In 1995, it approved a Price Regulation Plan for BellSouth that required its intrastate switched access rates to mirror analogous interstate rate elements.[4] As FCC and Commission thinking about access charges evolved, BellSouth restructured its access rates to move them "more closely to their costs and to continue the process of removing cross-subsidies."[5] In 2000, BellSouth agreed to eliminate the state-specific Non-Traffic Sensitive Revenue Requirement ("NTSRR"), thus moving its aggregate intrastate switched access rate to the FCC's "CALLS" interstate rate of $0.0055.[6]

8. To Verizon's knowledge, Windstream's existing intrastate switched access rates have been in place since at least the 1990s. The gap between BellSouth's rates and the rates of Windstream is, therefore, substantial.

9. Because carriers have different rate structures, to compare their switched access rates, it is necessary to review the aggregate charges that result from applying the various switched access rate elements in the carriers' respective tariffs. To calculate its cost of purchasing access services from a particular carrier, Verizon calculates the aggregate charges—or average access revenues per minute ("ARPM")—based on billings to Verizon. The ARPM calculation takes into account all of the relevant access rate elements that are billed on a per-minute-of-use basis, so it provides a more "apples-to-apples" comparison than review of a single

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[4] *BellSouth Telecomm., Inc.'s Application to Restructure Rates, Case No. 97-074*, Order, at 1 (Oct. 24, 1997), *citing* Case No. 94-121, *Application of BellSouth Telecomm., Inc. d/b/a South Central Bell Tel. Co. to Modify Its Method of Regulation.*

[5] *Review of BellSouth Telecomm., Inc.'s Price Regulation Plan*, Order, Case No. 99-434 ("*BellSouth Price Plan Review*"), at 9 (Aug. 3, 2000); *see also Tariff Filing of BellSouth Telecommunications, Inc. to Mirror Interstate Rates*, Order, Case No. 98-065 ("*BellSouth Mirroring Order*") (March 31, 1999).

[6] *BellSouth Mirroring Order. See infra* for a discussion of the FCC's CALLS proceeding, which restructured and reduced interstate access rates of federal price-cap carriers, and for a discussion of the NTSRR.

rate element. This calculation shows that the Windstream companies' switched access ARPMs (including the NTSRR and other carrier common line charges calculated on a per-minute basis) range from *over 700% to 2000% higher* than BellSouth's ARPM.[7]

10. Review of specific, tariffed switched access rate elements also illustrates how excessive Windstream's rates are. For instance,

- BellSouth has no carrier common line charges and it eliminated the NTSRR rate element from its Kentucky access tariff,[8] consistent with the Commission's determination that the NTSRR should eventually be phased out for all carriers.[9] As discussed below, the NTSRR was introduced as a method to recover costs associated with intraLATA presubscription.[10] Windstream West, however, still has a $2.51 per-access-line, per-month NTSRR,[11] and the Windstream East companies have analogous rates of $2.1075 per access line, per month.[12] These charges alone account for a substantial portion of the Windstream companies' access rates—Windstream East-London's carrier common line charges make up over half of its total, per-minute switched access rate, and these charges make up almost *three-quarters* of Windstream West's total rate. In addition, Windstream West has a $0.013179 per-minute "residual interconnection charge" or "RIC."[13]

- BellSouth has no switched access information surcharges, but Windstream West has a $0.000267 per-minute charge, and the Windstream East companies have a $0.0000895 per-minute charge.[14]

- BellSouth's per-minute rate for the switched access service rate element of tandem-switched transport termination is $0.000176.[15] The Windstream companies' charges for the same type of termination range from $0.00032 to $0.001444, or up to eight times BellSouth's rate.

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[7] Confidential Exhibit 1 is a table that includes the ARPMs for BellSouth and each of the Windstream entities.
[8] BellSouth cancelled the NTSRR through tariff revisions made on September 5, 2000.
[9] *See, e.g., Inquiry into Universal Service and Funding Issues*, Adm. Case No. 360, Order, at 35 (May 22, 1998) ("Elimination of NTS is a priority and will be considered along with the elimination of other implicit subsidies.")
[10] In approving the NTSRR, the Commission ordered: "Cost recovery shall be limited to the incremental investment and incremental expenses directly related and solely to providing intraLATA equal access." *Adm. Case No. 323, Phase I*, Order, at 29 (Dec. 29, 1994). In discussing alternatives for cost recovery, the Commission observed that NTS charges should be decreased or eliminated to promote competition. *Id.* at 18. As noted, BellSouth eliminated this charge more than seven years ago.
[11] Windstream Kentucky West Tariff PSC No. 5, Original Page 17-2
[12] Windstream Kentucky East Tariff PSC No. 8, Original Page 4; Windstream Kentucky East Tariff PSC No. 9, Original Page 12. Windstream converts the tariffed, per-access-line NTSRR to a per-minute charge for billing purposes.
[13] Windstream Kentucky West Tariff PSC No. 5, Original Page 17-4.
[14] Windstream Kentucky West Tariff PSC No. 5, Original Page 17-7; Windstream Kentucky East Tariff PSC No. 8, Original Page 144; Windstream Kentucky East Tariff PSC No. 9, Original Page 106.
[15] BellSouth Telecommunications Kentucky PSC Tariff 2E, Twenty First Revised Page 57.1, Section E6.8.1.C.2(a).

- BellSouth's per-minute rate for the switched access rate element of local end office switching is \$0.002158.[16] The Windstream companies' per-minute charge for the same rate element ranges from \$0.01379 to \$0.0412,[17] or up to 19 times BellSouth's rate.

By any objective measure, Windstream's intrastate switched access rates are unreasonably high.

II. WINDSTREAM'S SWITCHED ACCESS RATES MUST BE REDUCED TO PROMOTE COMPETITION.

A. Interexchange Carriers and Kentucky Long-Distance Consumers Should Not Be Required to Continue to Subsidize Windstream

11. BellSouth competes against Verizon in the Kentucky long distance market, but as noted, prior to market entry, BellSouth's intrastate switched access rates had been reduced to parity with its interstate switched access rates. Windstream is now competing in the same intrastate toll market, but to Verizon's knowledge, Windstream has made no significant access reductions and it appears that it will not do so absent Commission compulsion. Thus, in contrast to BellSouth, and as discussed more fully below, Windstream has the unfair advantage of recovering a substantial amount of its costs from competing interexchange carriers rather than its own long distance customers.

12. The dramatic market and regulatory changes in the telecommunications industry over the past decade compel a contemporary evaluation of Windstream's access rates.[18] The fact that BellSouth has mirrored in its Kentucky switched access rates the significant access reductions that have occurred at the interstate level also indicates that Windstream's rates are no longer reasonable. Windstream's failure to commit to rationalizing its intrastate access structure

[16] BellSouth Telecommunications Kentucky PSC Tariff 2E, Twentieth Revised Page 59, Section E6.8.3.A.1(b).
[17] Windstream Kentucky West, Inc. Tariff PSC No. 5, Original Page 17-7; Windstream Kentucky East, Inc.-Lexington Tariff PSC No. 8, Original Page 141; Windstream Kentucky East, Inc.-London Tariff No. 9, Original Page 106.
[18] Indeed, Windstream itself has urged the Commission to examine whether the switched access rates of another company, Mountain Rural Telephone, are just and reasonable. *See* Windstream Kentucky East's Reply to Mountain Rural Telephone's Response to Motion to Compel, filed Oct. 19, 2006, in Case No. 2006-00198, at 3.

is particularly troubling from a competitive standpoint, because its interexchange carrier ("IXC") affiliates, like Windstream Communications, Inc., have directly benefited from BellSouth's access rate reductions. Furthermore, Windstream has structured some of its nonbasic local service offerings to include special pricing only for customers of its IXC affiliate, and the affiliate is reciprocating, providing special pricing for Windstream's local customers. For instance, Windstream the ILEC offers its residential "Connect Unlimited II Bundle" only to customers who also sign up for IXC Windstream Communications, Inc.'s "Connect Unlimited" long distance calling plan."[19] Meanwhile, Windstream Communications, Inc. recently introduced a long distance offering for small business customers which provides *unlimited* long distance calling for a *monthly rate of ten dollars*. That plan is available only for local customers of Windstream.[20] Allowing Windstream the ILEC to continue to charge high switched access rates to other carriers while Windstream the IXC offers its own retail customers a bundled plan with unlimited long-distance calling raises serious competitive concerns.

13. Moreover, while Windstream continues to impose NTSRR-based charges on Verizon and other IXCs, Windstream (in the Mountain Rural Telephone case discussed above) objects to paying this charge to other local exchange carriers that have billed it for intraLATA toll traffic generated by Windstream's own interexchange services. In fact, there is no reason for *any company* to be paying this anachronistic charge, which was imposed over 15 years ago as a mechanism to help transition to "equal access" and a competitive intraLATA toll market.[21] As noted, the NTSRR and CCL charges make up a substantial portion of the Windstream companies' total, per-line switched access rates. To Verizon's knowledge, no other state has

[19] *See* Windstream Kentucky East, Inc.–Lexington Tariff No. 7, Second Revised Page 6, effective October 11, 2007.
[20] *See* Windstream Communications, Inc. Tariff No. 3, Sixth Revised Page 1, effective November 26, 2007.
[21] *Inquiry into IntraLATA Toll Competition, an Appropriate Compensation Scheme for Completion of IntraLATA Calls by Interexchange Carriers, and WATS Jurisdictionality*, Adm. Case No. 323, Phase I, Order (May 5, 1991).

allowed carriers to keep charging other carriers indefinitely for equal access conversion expenses. If states allowed recovery at all, it was typically of a defined amount of total expenses over a relatively brief period.[22] As noted above, BellSouth eliminated its NTSRR years ago, and there is no reason to believe other carriers cannot do the same. In fact, the Commission proposed elimination of non-traffic-sensitive rate elements for all carriers *over ten years ago*, but never concluded its examination.[23] Completion of this effort is long overdue.

14. Federal and state policymakers and regulators, including this Commission, understand the benefits of reducing unduly high access charges. In approving access reductions for BellSouth and Cincinnati Bell over the past decade, the Commission has cited public interest benefits including removing subsidies and pricing services more closely to their costs.[24] As the FCC has observed, economically efficient competition and the consumer benefits it yields cannot be achieved as long as carriers seek to recover a disproportionate share of their costs from other carriers, rather than from their own end users.[25] The FCC emphasized that such irrational access rate structures "lead to inefficient and undesirable economic behavior."[26] The Kentucky Commission reached a similar conclusion when it approved a $9.9 million access reduction as part of BellSouth's initial "price cap" plan.[27]

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[22] *See, e.g., Alternative Regulatory Frameworks for Local Exchange Carriers and Related Matters (IntraLATA Presubscription Phase)*, Decision No. 96-12-078, Case 87-07-024, Interim Opinion, at 10-11 (Cal. P.U.C. Dec. 20, 1996) (three-year recovery period for equal access-related expenses); *Petition of AT&T Comm. of Indiana, Inc., et al., for Commission Approval of 1+/0+ MTS on a Presubscribed Basis with Respect to the Provision of Their Intrastate IntraLATA Services*, Cause No. 40284, Order, at 10 (I.U.R.C. Nov. 26, 1996) (three-year recovery period for equal access-related expenses).
[23] *See Inquiry into Universal Service and Funding Issues*, Adm. Case No. 360, Order (June 18, 1997).
[24] *See BellSouth Price Plan Review*, at 9-10; *BellSouth Mirroring Order*, at 4-5; *Cincinnati Bell Telephone*, Case No. 98-292, Order at 13-14 (Jan. 25, 1999).
[25] *See generally Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Low-Volume Long Distance Users; Federal-State Joint Board On Universal Service*, Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd 12962 (May 31, 2000) ("*CALLS Order*").
[26] *Id.*, ¶ 129.
[27] *See Application of BellSouth Telecomm., Inc. d/b/a South Central Bell Tel. Co. to Modify Its Method of Regulation,* Case No. 94-121, Order at 22 (July 20, 1995).

15. The anti-consumer results of irrational rate structures include reduced incentives for local entry by firms that might be able to provide service more efficiently than the LEC charging the unduly high access rates, as well as suppression of demand for the services of carriers that must pay these rates.[28] By raising the price of a necessary input to the provision of service by other carriers, the cost, and therefore price, of those carriers' services are artificially elevated. Allowing Windstream to continue to charge excessive switched access rates would, therefore, hurt Kentucky telecommunications consumers by requiring them to subsidize Windstream through artificially inflated prices. Reducing the price of a necessary input (that is, access services) to other carriers will enhance efficiency in the long distance services those carriers provide, which will benefit consumers. Indeed, there is no debate that Kentucky's long-distance market is competitive, which by definition means that Kentucky consumers will benefit as carriers respond to improving conditions. Protecting competitive opportunity through proper access pricing will make it possible for Kentucky interexchange carriers to continue to innovate and introduce the types of unique product offerings which have been the hallmark of industry leaders like MCI for nearly forty years.

B. Windstream Can and Should Compete on the Same Playing Field with Other Large Telephone Companies.

16. Although the benefits of access charge reductions are well recognized (and have been implemented by BellSouth in Kentucky), smaller independent ILECs have often argued that they should be permitted to avoid the substantial reductions imposed upon the larger carriers. However, there is no need for any policy of protectionism for Windstream, which is today a sizeable, sophisticated, and well-financed competitor.

[28] *See CALLS Order*, ¶ 114.

17. Through a series of mergers and acquisitions over the last 20 years, Windstream Corporation has become "the largest telecommunications and entertainment services company focused on rural America,"[29] with 3.2 million access lines, 715,000 broadband customers, and 122,000 television customers.[30] In Kentucky, Windstream owns three local exchange carriers, and Lexington is Windstream's largest wireline market in the country. Windstream is listed on the S&P 500 Index and trades on the New York Stock Exchange.[31] Windstream continues to grow its competitive offerings aggressively, providing a full complement of voice, data, and entertainment services. Customers have responded: Windstream reported a record 48% increase in broadband customers last year, and added 59,000 broadband customers and 35,000 television customers in the first quarter of this year.[32] The result has been robust earnings and revenue growth: its first quarter 2007 revenue of $783 million was an increase of 11% from the prior year; its operating income of $270 million was an increase of 55% from the prior year.[33] Windstream touts its "sufficient scale to compete" and a market capitalization that allows it to "take advantage of strategic operational and financial opportunities." [34]

18. In fact, Windstream Corporation recently petitioned the FCC for authority to convert its remaining rate-of-return local exchange properties to federal price-cap regulation to put itself in a "similar regulatory position to other comparable price cap carriers," which include Verizon and the other Regional Bell Operating Companies.[35] Windstream explained that its "focus over the long term is on running its operations efficiently in order to compete effectively

[29] Company Info, History (visited Oct. 8, 2007).
[30] News Release, "Windstream Reports Record Broadband, Digital TV Growth in First Quarter (May 10, 2007) ("May 10 News Release"), available at (visited Oct. 8, 2007).
[31] www.windstream.com, Company Info, Overview (visited Oct. 8, 2007).
[32] News Release, "Windstream Reports Record Broadband Customer Growth in Third Quarter: Merger Efforts on Track to Achieve $40 Million in Net Synergies in 2007" (Nov. 9, 2006), available at.
[33] May 10, 2007 News Release.
[34] Company Info, Overview (visited Oct. 8, 2007).
[35] Windstream Petition for Conversion to Price Cap Regulation and for Limited Waiver Relief, WC Docket No. 07-171, at 2 (Aug. 6, 2002).

rather than on maximizing universal service and regulated access revenues over the short term." *Id.* at 2 (emphasis added). Windstream's petition boasts that it has already "eliminated its CCL charges" in the interstate jurisdiction, *id.* at 25, and emphasizes lower interstate access rates as a consumer benefit of its move to the price-cap switched access rate structure established in the FCC's CALLS Order.[36]

19. By its own account, Windstream is an able competitor that is profiting handsomely from the investments it has made to deliver advanced services to its subscribers. Based on its FCC filings, Windstream recognizes that efficient operation, rather than undue reliance on access (and universal service) revenues is the key to competitive success in the long run. There is, therefore, no justification for continuing to allow Windstream the unfair advantage of recovering its network costs disproportionately from other carriers through high intrastate access charges, rather than from its own end users.

C. Windstream Should Mirror Bellsouth's Intrastate Switched Access Rates.

20. As the FCC recognized, market-based mechanisms are the best way to produce efficient prices and promote the public interest. CALLS Order, ¶ 178. The Kentucky General Assembly agrees that "consumers benefit from market-based competition that offers consumers of telecommunications services the most innovative and economical services." KRS § 278.546(4). Negotiated intercarrier compensation agreements are the best long-term solution to ensuring the efficiency of telecommunications markets in the face of substantial technological change. Among other advantages, this kind of approach, by virtue of being technologically neutral, adapts more easily to changing technologies, encouraging their introduction without the need to modify the regulatory regime.

[36] *Id.* at 8-9, 17, 20 ("the weighted average ATS [average traffic sensitive] rate in the converted study areas would be approximately $0.0085, a seven percent reduction from the current ROR switched access rates"), 24, 35.

21. Until the industry can fully transition to a regime of commercially negotiated agreements, however, the Commission needs to assure that access rates are set and maintained at a level that will promote competition and economic efficiency. As a first step toward the ideal of negotiated intercarrier compensation arrangements, the Commission should set a benchmark to which other carriers' rates should move (and from which carriers may choose to later negotiate deviations). The most appropriate benchmark is BellSouth's intrastate switched access rate. As the largest incumbent in Kentucky and as a Regional Bell Operating Company, its intrastate switched access rates have been subject to the closest regulatory scrutiny and the strictest economic discipline with respect to recovery of revenues from its own end users, rather than from other carriers. From a competitive standpoint, it makes sense to put Windstream on equal footing by moving it to this rate.

22. Moving Windstream's intrastate switched access rates to BellSouth's intrastate rates best promotes the Legislature's policy preference for market-based competition, because they are the product of negotiations among sophisticated local and interexchange carriers with equivalent bargaining power. This is because BellSouth's existing intrastate switched access rates mirror its interstate switched access rates, which were negotiated among these carriers before being approved by the FCC.

23. When the FCC approved these rates in 2000 in its CALLS proceeding, it concluded that they would "accelerate the development of competition in the local and long-distance telecommunications markets," *CALLS Order*, ¶ 4, "by removing implicit subsidies in access charges and recovering costs from those services that cause them." *Id.*, ¶ 166. The FCC deemed the negotiated CALLS rates to be consistent with its policy "that a market-based approach, instead of a prescriptive approach in which we set access charge rates at economic cost

levels, better serves the public interest." *Id.*, ¶ 178. Because the rates were the result of compromise among sophisticated carriers with historically opposing positions, the FCC concluded that they were "within a zone of reasonableness," *id.*, ¶¶ 48, 49, representing "a reasonable transitional estimate of rates that might be set through competition." *Id.*, ¶ 178. In fact, the CALLS rates enjoyed support from not only price-cap LECs and interexchange carriers, but from CLECs who proposed reducing their own access charges to the same target rates. *Id.*, ¶ 178.

24. Because the FCC found that the CALLS plan fairly balanced the interests of all parties, including those that were not part of the CALLS coalition, it made the plan mandatory for all price-cap carriers. *Id.*, ¶¶ 48, 58, 75. Indeed, the FCC found that "failure to implement it fully would frustrate the consumer benefits we find appropriate for its adoption." *Id.*, ¶ 50. It declined to conduct cost proceedings before approving the CALLS plan, finding that immediate access rate reductions to reflect market levels would better serve the public interest than first conducting a "lengthy and complex" cost proceeding based on archaic regulatory notions of cost. *Id.*, ¶¶ 178, 84. This Commission, likewise, did not find it necessary to conduct a cost case before approving access rate reductions for BellSouth and Cincinnati Bell.

25. The broader the scope of implementation of the BellSouth CALLS-level rates that are already just and reasonable, the greater the benefits they will produce for consumers and competition—as the FCC understood by imposing the CALLS rates on smaller carriers that did not participate in negotiating them. But if the Commission is reluctant to move Windstream directly to BellSouth's rates, a reasonable interim solution would be to require Windstream to mirror its own interstate access rate, followed by a further reduction to match BellSouth's intrastate access rate within a year. As discussed above, Windstream has eliminated its interstate

CCL charges, its interstate switched access rates are from 80% to 96% lower than its respective intrastate access rates, and Windstream's move to price-cap regulation will further reduce its interstate rates. Therefore, Windstream cannot plausibly argue that moving its intrastate rates to interstate levels will yield inadequate compensation.

26. Verizon is not proposing access reform as a means of reducing carrier revenues, but to rationalize rate structures. To the extent that Windstream has legitimate network costs to recover, it can and should have flexibility to recover those costs through rates for the services it provides to its own customers, just as BellSouth already must do. Commission intervention should not be necessary for Windstream to undertake any rate rebalancing it may deem appropriate after access rates are reduced. Under Kentucky law, Windstream already has total retail pricing flexibility for its nonbasic local and toll services, *see* KRS § 278.544(4), as well as for its broadband services, *see* KRS § 278.5462(1)(b), and it now has a diverse suite of services and a broader customer base from which to recover its network costs.

III. PRAYER FOR RELIEF

27. Ultimately, intercarrier compensation rates at both the state and federal level should be determined by commercial negotiations in a free market. But until the transition to a commercial negotiation regime occurs, the Commission should adopt the market-based approach Verizon recommends here. Requiring Windstream to mirror (and continue mirroring) the CALLS-level rates that BellSouth already maintains would be an important step toward expanding the acknowledged benefits of those rates for Kentucky's telecommunications consumers. Therefore, Verizon respectfully requests that the Commission investigate Windstream's intrastate switched access rates, set this matter for hearing, and order Windstream to reduce its rates as proposed herein.

Respectfully submitted on December 5, 2007.

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